

REMARKS

The Office Action of September 1, 2009 has been reviewed and the Examiner's comments carefully considered. The present Amendment modifies claim 1 in accordance with the originally-filed specification. No new matter has been added. Further, claim 3 has been cancelled, without prejudice. Accordingly, claims 1 and 2 are pending in this application, and claim 1 is in independent form.

Claims 1-3 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,371,328 to Yamada et al. in view of U.S. Publication No. 2003/0026929 to Usui et al. In view of the foregoing amendment to claim 1, and the following remarks, Applicants respectfully request that the rejections be withdrawn.

Summary of the Preferred Embodiment

As set forth in independent claim 1, as amended, provided is a heat insulating container including a container body having a bottomed tubular shape and an outer shell that is formed by a foamed resin sheet exhibiting heat shrinkability. The outer shell covers a peripheral wall of the container body with a space created between the peripheral wall and the outer shell. Further, the outer shell includes a tubular portion disposed opposite to the peripheral wall of the container body and an annular portion extending from an opening edge of a lower end of the tubular portion towards the inside of the tubular portion. The annular portion has a distal end and a proximal end, and the distal end is located farther from an inner peripheral surface of the tubular portion than the proximal end. In addition, the annular portion is formed so as to have the distal end with a space to a bottom portion of the container body so that gas within the space is communicated with the outside via a lower end opening of the tubular portion.

The presently-invented heat insulating container is configured and arranged so as to reduce the number of steps and materials for manufacturing, as well as to ensure an appropriate strength in the lower end side of the outer shell. Further, the construction of the heat insulating container of the present invention ensures appropriate gaseous communication between the space created between the peripheral wall and the outer shell, and the outside environment, specifically through a lower end opening of the tubular portion.

The Cited Prior Art

The primary reference cited by the Examiner in formulating the Section 103 rejection of claims 1-3 is the Yamada patent. The Yamada patent is directed to a heat insulating container and with reference to the Examiner's description on pages 3 and 6 and Fig. 1 of the Yamada patent, the Examiner contends that the Yamada container includes an outer shell (3) that includes an annular portion (3a) extending from an opening edge of a lower end of the tubular portion towards the inside of the tubular portion, where the annular portion (3a) includes a distal end and a proximal end, where the distal end is located farther from an inner peripheral surface than the proximal end. Further, the Examiner contends that the annular portion (3a) is formed to include a distal end with a space (4) to a bottom portion of the container body so that gas within the space is communicated with the outside via a lower end opening 3(e) of the tubular portion, with reference to column 5, lines 32-34 of the Yamada patent.

Further, the Examiner admits that the Yamada patent does not teach or suggest an outer shell that is formed by a foamed resin sheet having heat shrinkability. However, the Examiner believes that such material is used in a dual-layered insulating container, as taught by the Usui publication. In particular, the Examiner contends that it would have been obvious to one skilled in the art to select a foamed resin sheet having heat shrinkability for the outer shell of a heat insulating container as an obvious matter of design choice.

None of the Cited Prior Art Teach or Suggest the Claimed Heat Insulating Container

In order to advance prosecution, Applicants have amended independent claim 1 to incorporate the features of dependent claim 3 (which has been cancelled). Accordingly, in addition to the unique arrangement set forth in the previous version of claim 1, the claim now recites: "the annular portion is formed so as to have the distal end with a space to a bottom portion of the container body so that gas within the space is communicated with the outside via a lower end opening of the tubular portion." As discussed hereinafter, this feature is clearly not taught or suggested in the prior art of record, including the Yamada patent and the Usui patent.

On page 6 of the Office Action, the Examiner contends that the Yamada patent discloses "the annual portion (3a) is formed so as to have the distal end with a space (4) to a bottom portion of the container body so that gas within the space is communicated with the outside via a lower end opening (3e) of the tubular portion...." Applicants respectfully

disagree, and draw the Examiner's attention to column 3, lines 62-65 of the Yamada patent, which reads:

The through hole 3e is blocked by a sealing plate 12 adhered to the bottom plate 3a by an adhesive agent such as a cyanoacrylate-based adhesive agent or the like. The sealing plate 12 made of polycarbonate or the like may be used.

(emphasis added). While Applicants agree that the through hole 3e may represent a "lower end opening," this "lower end opening" is "blocked by a sealing plate 12," which serves to enclose gas between the inner casing and the outer casing. Therefore, it is physically impossible for this "lower end opening" (3e) to permit "gas within the space [to be] communicated with the outside via a lower end opening of the tubular portion," as specifically set forth in independent claim 1, as amended.

The Usui patent does not cure the deficiencies of the Yamada patent. In particular, the container of the Usui patent does not teach or suggest (among other structural features) an "annular portion is formed so as to have the distal end with a space to a bottom portion of the container body so that gas within the space is communicated with the outside via a lower end opening of the tubular portion." Specifically, the Usui patent includes a double-walled structure, where the outer casing is formed by molding a resin sheet into a bottomed tubular shape, and where the walls at the bottom area of the container are sandwiched against each other.

Therefore, Applicants assert that at least this unique feature is neither taught nor suggested in either of the Yamada patent or the Usui patent. In particular, these references do not disclose a heat insulating container that includes, *inter alia*, gaseous communication between the inner space (between the walls) and the outside environment, as specifically set forth in independent claim 1, as amended, of the present application.

Summary

For the foregoing reasons, independent claim 1 is not anticipated by or rendered obvious over the Yamada patent, the Usui patent, or any of the prior art of record, whether used alone or in combination. There is no hint or suggestion in any of the references cited by the Examiner to combine these references in a manner that would render the invention, as claimed, obvious. Reconsideration of the rejection of independent claim 1 is

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respectfully requested. Claim 2 depends directly from and adds further limitations to independent claim 1 and is believed to be allowable for at least the reasons discussed hereinabove in connection with independent claim 1. Therefore, reconsideration of the rejection of claim 2 is respectfully requested.

For all of the foregoing reasons, Applicants submit that claims 1 and 2, as amended, are patentable over the cited prior art and in condition for allowance. Reconsideration of the rejections and allowance of pending claims 1 and 2 are respectfully requested.

Respectfully submitted,
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